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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,364	11/14/2005	Claudio Lacagnina	07040.0217	2971
22852	7590	06/10/2010		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER KNABLE, GEOFFREY L.	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			06/10/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/530,364

**Applicant(s)**

LACAGNINA, CLAUDIO

**Examiner**

Geoffrey L. Knable

**Art Unit**

1791

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19, 21-25, 29-31, 33, 34, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19, 21-25, 29-31, 33, 34, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/17/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 30, 31, 33, 34 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The last three lines of claim 30 as amended are still arguably ambiguous as it is not entirely clear what additional apparatus features are required by these lines. In particular, these lines now define that "the apparatus disposes the carcass structure on the primary drum" but no apparatus structure was previously defined in the claim that would be capable of functioning in this manner. Note for example that devices for application of belt layers are defined earlier in the claim but no equivalent devices or structure are defined for the carcass component parts. An ambiguity is therefore still present in assessing the scope of the claim insofar as it is not clear what if any additional structural apparatus requirements are provided by these lines. In other words, these lines as presently phrased ("wherein the apparatus disposes" ) would normally be read as further defining functional capabilities of apparatus parts *that were already defined* earlier in the claim. As no apparatus parts are defined that would be capable of providing this function, the scope of the claim in this regard remains indefinite.

3. Claims 19, 21-23, 29-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (US 2001/0002608) taken in view of at least one of

[Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] and optionally further in view of at least one of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)].

This rejection is maintained for substantially the same reasons set forth in the last office action. With respect to the amendments to claims 19 and 30, Okada et al. forms the tread by strip winding while the auxiliary drum is away from the coaxial relationship. As to the drum being away from the vertical plane, as noted in prior office actions, in view of Sasaki et al. and/or JP '737, it would have been understood to be an essentially equivalent and obvious mechanical alternative to allow for repositioning of the drum between the two belt/tread building positions in Okada et al. to use a turret rotatable in a horizontal plane around a vertical axis rather than in a vertical plane rotatable around a horizontal axis, the secondary references likewise also then suggesting that the drum be offset from the vertical primary drum plane in the second position. Only the expected and predictable results, including different space requirements (e.g. less height needed), would follow.

4. Claims 19, 21-23, 29-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over at least one [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] taken in view of Okada et al. (US 2001/0002608) and Miyamoto et al. (US 5,399,225) and further in view of at least one of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)].

This rejection is maintained for substantially the same reasons set forth in the last office action. With respect to the amendments to claims 19 and 30, Sasaki et al. and JP '737 both move the auxiliary drum away from coaxial relationship during the

belt/tread building, belts being applied while in coaxial relationship. However, in these references, the tread is described as applied in the first coaxial position rather than the second position. In view of Okada et al. and Miyamoto et al., applying the tread at the other position would have been obvious and lead to only the expected and predictable results. In particular, Okada et al. is also directed to formation of a belt/tread assembly at two different building positions and in particular suggests that the belts can be applied at one position while a *strip wound* tread is suitably applied at the second (non-coaxial) position. Miyamoto et al. likewise is directed to splitting the formation of the belt/tread assembly among two different building positions and evidences an understanding in this art that the appropriate division of the various assembly steps between the two positions depends upon the particular building times required for the various different steps, variations thereof (*including winding the tread at the same position as the winding of the cap ply/jointless - fig. 6*) being obvious and leading to only expected results (note esp. figs. 6-7 and the related description). In view of these teachings, it would have been obvious to modify the basic teachings of Sasaki et al. or JP '737 to strip wind the tread at the second position as an extruded strip winding as claimed, the advantages of strip winding (lack of a joint, etc.) being well understood in this art (note Okada et al. suggests strip winding). A method and apparatus as claimed would therefore have been obvious.

5. Claims 24, 25 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Okada et al. (US 2001/0002608) taken in view of at least one of [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] and optionally further in view of at least one

of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)]] **or** [at least one [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] taken in view of Okada et al. (US 2001/0002608) and Miyamoto et al. (US 5,399,225) and further in view of at least one of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)]] as applied above, and further in view of Caretta et al. (US 2001/0042586) as applied in the last office action.

6. Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Okada et al. (US 2001/0002608) taken in view of at least one of [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] and optionally further in view of at least one of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)]] **or** [at least one [Sasaki et al. (US 4,985,100) and JP 3-114737 to Toyo Tire] taken in view of Okada et al. (US 2001/0002608) and Miyamoto et al. (US 5,399,225) and further in view of at least one of [Irie (US 4,468,267) and Kondo et al. (US 5,413,653)]] as applied above, and further in view of the admitted state of the prior art or GB 1,048,241 (of record).

At page 4, lines 4-21 of the specification, it is described as known to vary the overlapping amount in a strip wound layer/tread to vary the thickness of the layer. GB '241, referred to at these lines, supports this statement. To vary the overlap to control the tread thickness of a strip wound tread is therefore well known and obvious in this art when strip winding to form a tread and would lead to only the expected and predictable results.

7. Applicant's arguments filed 2/26/2010 have been fully considered but they are not persuasive.

The rejections of claims 30 and 33 over JP '737 alone or in view of Irie/Kondo et al. have however been withdrawn in view of the amendments to the claim as JP '737 is not adapted or capable of forming the tread as claimed. The 112 rejections not repeated have been withdrawn. The 112 rejection of the last lines of claim 30 is however maintained for reasons detailed in the statement of rejection.

The other prior art rejections are also maintained. With respect to these other rejections, applicant concentrates on the teachings of Sasaki and JP '737. With respect to the rejection using Okada et al. as the primary reference, it is emphasized that Okada et al. suggests strip winding of the tread and forms the tread at the non-coaxial position of the auxiliary drum. In this rejection, Sasaki and JP '737 were applied simply as evidence of an art recognized suitable and effective alternative manner of exchanging auxiliary drum positions during formation of a belt/tread assembly at two different positions. In particular, in view of these teachings, it would have been understood to be an essentially equivalent and obvious mechanical alternative to allow for repositioning of the drum between the two belt/tread building positions in Okada et al. to use a turret rotatable in a horizontal plane around a vertical axis rather than in a vertical plane rotatable around a horizontal axis, the secondary references likewise also then suggesting that the drum be offset from the vertical primary drum plane in the second position. Only the expected and predictable results, including different space requirements (e.g. less height needed), would follow.

With respect to the rejection using Sasaki and JP '737 as primary references, while these references do split the belt/tread building with the tread applied at the initial

coaxial position, it is submitted that more fundamentally, these references would have been understood as a recognition in this art that splitting multi-step belt/tread building among two different drum/positions allows simultaneous building and therefore a more efficient process. Which steps are performed at which drum position would have been readily and routinely selected by the ordinary artisan dictated by the particular belt/tread configuration/construction being built and the time requirements for any particular step. Note also again Miyamoto et al., which is likewise directed to forming a belt/tread assembly at two different building positions, evidences an understanding in this art that the appropriate division of the various assembly steps between the two positions depends upon the particular building times required for the various different steps, variations thereof (including winding the tread at the same position as the winding of the cap ply/jointless - fig. 6) being obvious and leading to only expected results (note esp. figs. 6-7 and the related description). Note also Okada et al. would have taught the artisan that if dividing the belt/tread building between two positions, and especially in a process including strip winding to form the tread, it is suitable and effective to strip wind the tread at the non-coaxial position. To appropriately divide the required steps between the two building positions, including forming a strip wound tread at the second position, would therefore have been obvious and lead to only the expected and predictable results.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/  
Primary Examiner, Art Unit 1791

G. Knable  
June 7, 2010